

Reconciling Intelligence Effectiveness and Transparency: The Case of Romania

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Introduction

“The basic paradox is that secrets fit awkwardly into a democracy, but secrets are sometimes necessary to protect.. .democracy.”

Lee H. Hamilton[1]

One of the most difficult challenges of operating an intelligence system in a democracy is finding a balance between the effectiveness (ability of the intelligence system to successfully carry out the assigned roles and missions) and transparency (access to intelligence information). In general, intelligence involves secrecy, which is vital for its effectiveness, while democracy calls for openness and accountability of the intelligence system, namely working in the context of the rule of law and respect for human rights, checks and balances, and defined mandates.

Yet, too much secrecy has proven to affect intelligence’s effectiveness: assessments of the 9/11 terrorist attacks in the United States concluded the attacks were a failure of intelligence due to the inability of the American intelligence agencies to share information with each other and with intelligence consumers.[2] Monitoring the current security landscape requires increased information sharing and expertise: the intelligence organizations need to get “information in front of as many people as possible so as to improve the odds that someone will see a telltale pattern.” On the other hand, too much transparency may affect the intelligence system’s effectiveness, in that it could be prohibitively expensive and endanger social values, such as protection of individual privacy, national security, and law enforcement.[3]

With too much transparency, there would be no difference between an intelligence agency and a media organization or an NGO. Scrutinizing the activity of the intelligence organizations, as well as information sharing, is crucial to guarantee their transparency, but without affecting their capabilities to fulfill their mission: to inform the decision makers on the upcoming security threats and challenges.

Achieving a proper effectiveness-transparency balance has been difficult for countries like Romania, which underwent a regime change; Romania had to “revolutionize” an intelligence

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apparatus that used to be the “force” of the totalitarian regime (relying heavily on secrecy and operating by the *divide et impera* principle) to one that actually respects and works for the new, democratic system.

Romania did not let go of the past easily and, therefore, changing the intelligence system from a highly effective state security apparatus into a democratic community—equally effective and transparent—has been a Sisyphean effort, yet ultimately rewarding. Almost two decades after the regime change, Romania succeeded in accommodating the two competing interests of intelligence and democracy: effectiveness and transparency. Today, general awareness of the current security menaces (ergo recognition of the need of an increased intelligence effectiveness) exists among the new intelligence community, government, civil society, and citizens as well as acknowledgment of the need for accountability (ergo recognition of the need of strengthened control and improved information sharing). Romania’s struggle to achieve this tradeoff has resulted in a professional intelligence system, and a robust set of control mechanisms that includes direction and review/oversight, public access to documents, and deliberative meetings in which security issues are debated.

This article examines how Romania managed to reconcile and achieve a tradeoff between the two competing imperatives of operating intelligence in a democracy—effectiveness and transparency. It analyzes what obstacles Romania overcame to accommodate the effectiveness of its post-communist intelligence system with the public need for information.

The Communist Period: Effectiveness and Secrecy

In 1947 the communists took power in Romania; and an intelligence agency was created in 1951—the General Directorate of State Security (DGSS), including a Directorate for External Information (DIE) to support the regime. Under the Ceausescu administration (1965-1989), the DGSS underwent a few reforms and became the Department of State Security (DSS), dubbed the “Securitate.” Besides ensuring the protection and security of the country, the Securitate was used by Ceausescu to spy on the populace, with the help of a huge network of informants or collaborators of all ages and social backgrounds. At that time Romania was a “paranoid state that forced friend to spy on friend, lovers to betray each other to police, and informants to scour poems for signs of subversion.”^[4]

Securitate had special departments monitoring Romanians, dissidents living abroad, and political prisoners. It was a “malignantly” effective political police whose ubiquitous presence, fueled by a ceaseless campaign of repression and fear, seeded mistrust, suspicion, and corruption among the Romanians.

Securitate was subjected to Ceausescu’s control and surveillance; at the minimum, officers within the DSS were under scrutiny by their superiors and vice versa; at the maximum, Ceausescu directly supervised Securitate units (i.e. the secret anti-KGB unit, which spied on those suspected to plot with the Russians), tasked their heads and had them report before him, and personally monitored/handled Securitate funds.^[5] By the late 1980s, however, Securitate slowly evolved from a political police to an independent security state, due to a strong anti-Ceausescu faction within the institution, leaving Ceausescu alone in the rise of the 1989 events.^[6]

After the bloody revolt in 1989 and the fall of Ceausescu’s autocratic rule, Romania has sluggishly yet effectively wiped out the Securitate stain on the new intelligence system, which repeatedly faced allegations of being the Securitate heir; the new intelligence organizations are now transparent, under democratic control, and fulfill their mandates effectively and within the framework of sound domestic and international partnerships. In this context, clearing up the past has been very important; enabling citizens’ access to Securitate files (knowing what Securitate

did and how it operated in the past) has been essential for acquiring populace's understanding and trust, as well as increasing IC's transparency at present.

The Post-Communist Period: Effectiveness and Transparency

After the end of the cold war, Romania established a new intelligence structure (composed of at least nine agencies) on the ruins of the former Securitate, retaining the infrastructure, logistics, personnel, and files of the former communist institution. Currently six intelligence agencies operate in Romania^[7]: independent agencies include the Romanian Intelligence Service (SRI); the Foreign Intelligence Service (SIE); the Guard and Protection Service (SPP) and the Special Telecommunication Service (STS); and ministerial agencies include the General Directorate for Intelligence and Internal Protection (DGIPI) and the Directorate for General Information of the Army (DGIA).

Their legal framework is based in the Law number 51/1991 on National Security and the Constitution of Romania of 1991 (amended in 2003), as well as legislation on the organization and functioning of each intelligence agency.

The agencies conduct domestic and foreign intelligence and counter (or security) intelligence activities, as well as military/police intelligence. They have HUMINT, SIGINT and IMINT capabilities, do collection, analysis, and dissemination of intelligence and operate undercover. Romanian intelligence agencies have Rapid Intervention and Anti-Terrorism Brigades/Units including a Special Operations Force, capable to deploy within 72 hours anywhere for any type of mission.^[8]

Challenges and Solutions to Achieving a Tradeoff between Democratic Effectiveness and Transparency

Democratizing the intelligence community in post-communist Romania has been a complex, challenging, and protracted journey to alienate a haunting past of secrecy and moral torture. Reforming intelligence was a joint venture of Romania's elected authorities, the intelligence organizations, civil society, media, and the international community. The outcomes are rather impressive: the current Romanian IC has distinguished itself by democratic effectiveness, transparency and accountability, information sharing and partnerships. Romanian IC officers are currently deployed in Afghanistan, Bosnia, Kosovo, Albania, and Iraq.

Effectiveness

The breaking up of the Securitate in the early 1990s into many agencies (at least nine), functioning upon a faulty legal framework, and preserving a great percentage of former political police personnel, generated challenges to the democratization and effectiveness of the intelligence community in Romania. The problems included the following: overlapping of responsibilities (thus rivalries among the IC components), too much secrecy, and inadequate democratic work ethics (thus, lack of transparency, difficult democratic control, and politicization of intelligence), and poor human resource management (thus staffing and education/training difficulties). This situation lasted for years, primarily due to president Ion Iliescu's long administration (1990-1996 and 2000-2004), a former communist party member opposing Ceausescu during the cold war who did not give up his communist beliefs after 1989, and who did not eliminate corruption and wrongdoing within the government.^[9] Suffice it to say here, Iliescu refused to consider the merging of agencies (invoking a concern of returning to the old time Securitate) and appointed two former Securitate officers as heads of the first post-communist intelligence agencies (SRI and SIE). SRI's head, Virgil Magureanu, was a former DIE officer who harbored thousands of Securitate officers within the SRI during his seven-year mandate, while

SIE's head was the notorious Mihai Caraman, who penetrated and stole information from NATO premises during the iron curtain period.^[10] The "Caraman Network" (recruited by the DIE, but coordinated by the KGB) highly prejudiced the Atlantic Alliance in that it stole top secret documents from the NATO headquarters on the development of defensive and offensive lines in Europe until 1975; the costs to rethink the strategies and move military bases as a result of the theft were very high.^[11] In Mihai Pacepa's view, (former deputy head of the DIE, who defected to the United States in the early 1970s) after 1989, Virgil Magureanu, contributed to the politicization of the SRI, while Mihai Caraman, perpetuated the communist era duplicity towards western countries.^[12]

Reiterated accusations by the civil society, media and international community resulted in the removal of both Caraman and Magureanu from the SRI and SIE leadership; Mihai Caraman was replaced in 1992 (quite soon after his appointment) upon special request by former NATO Secretary General Manfred Woerner, while Magureanu was replaced in 1997 after the publication of an article in "The Washington Times" by Michael Ledeen (former U.S. Presidential Advisor) and Mihai Pacepa, stressing that Romania would lose NATO membership due to the continuation of thousands of Securitate officers in current intelligence structures.^[13] Oddly, during his second term, Iliescu rehired into government (both executive and parliament) former Securitate personnel that president Constantinescu had fired during his administration (1996-2000), including: Mihai Caraman as the prime minister's personal advisor and Ristea Priboi (deputy head of the foreign intelligence section of the Securitate), as head of the SIE oversight committee within the parliament.^[14] Due to media and foreign pressure, Priboi resigned.^[15]

Later efforts were directed towards the downsizing of the old-timers from the post - communist services, especially to ensure Romania would be considered in the next NATO enlargement; NATO and EU accession were top priorities for the Romanian governments after the end of Ceausescu's reign: NATO/EU membership has been seen by Romania as a proof of its alienation from Russia and return to the Western values, which Romania shared before communism, mainly explained by Romania's Latin legacy. Before communism for example, Romania had strong ties with France: many Romanians studied in France and Bucharest, the capital of Romania, was known as the "Little Paris." In regards to NATO membership, in 2002 yet another scandal burst out, when the Romanian press translated an article by the Wall Street Journal on the same topic: NATO's lack of trust in the Romanian intelligence.^[16] The result was quick: a few weeks after the article, the government in Bucharest announced that all intelligence officers assigned to work with NATO would be screened; later in November, the government created the National Registry Office for Classified Information (ORNISS) by Emergency Ordinance Number 153 of 2002 to issue both national and NATO security clearances; and the Romanian government accelerated the downsizing of the former Securitate personnel to lower ratios (DGIA has no Securitate officers in its units, while the SRI had only 4.5 per cent in 2006).^[17]

To finish with the Securitate legacy, Romania has been undertaking major efforts to professionalize the IC (to foster expertise, corporateness, and responsibility), to replace, thus, the old generations of intelligence agents with young open-minded intelligence professionals, with a true sense of responsibility to democracy.^[18] To do this, it has institutionalized a new personnel management system, with modern recruiting, promotion, education and training techniques. By 2007, the average age in the intelligence agencies came down to 35. These personnel graduated after 1989 and have no relation with Romania's past political police. As well, the personnel of the IC anti terrorist units is professional, selected from champions of various NATO/PfP special operations exercises.^[19]

It is also worth mentioning president Traian Basescu's commitment to promote young personnel and most important to curb political appointments. President Basescu appointed George Cristian Maior, a member of one of the opposition party, as head of SRI, in October 2006; Maior is a law graduate from the University Babes-Bolyai, Cluj-Napoca (1991), and the College of International and Comparative Law of George Washington University, in Washington D.C. He was deputy

defense minister (2000-2004) and president of one the Parliament intelligence oversight committees from 2004 to October 2006.[20]

The post communist IC personnel have benefited from modern, democratic intelligence and security education and training, both in Romania and abroad, which contributed greatly at increasing the IC professionalism. At the national level, Romania has the National Intelligence Agency (ANI), the High National Security College (HNSC), as well as specialized training units within other intelligence agencies, whose programs rely heavily on NATO/Western curricula and teaching expertise, and reflect the new security features.[21] The HNSC was established following the Citizen's Academy within the U.S. Federal Bureau of Investigations (FBI), while the SPP agents train together with the U.S. Secret Service agents.[22]

At the international level, governmental programs and prominent institutions from democratic countries have contributed tremendously to increasing Romanian IC professionalism and effectiveness. The U.S. Counter Terrorism Fellowship (CTFP) program, which has trained SRI officers and the Tactical HUMINT Teams (THTs) within the 1st Romanian Special Forces Battalion, has been instrumental in increasing Romania's Special Operations Battalion and THTs readiness for deployment, as well as for expanding inter-agency cooperation and intelligence sharing.[23] Likewise, U.S. Navy SEAL, Green Berets, Delta Force, Marine Force Recon and SAS education and training programs have trained a great number of agents within the Romanian Rapid Intervention Units.[24] The U.S. Center for Civil-Military Relations (CCMR) has conducted annual programs in intelligence (including democratic control of the intelligence, intelligence and combating terrorism, ethics in intelligence, the intelligence and the media etc), which gather together both intelligence professionals and representatives of the parliament, government and civic groups. The trainers have had only positive things to say in regard to Romanian IC professionalism, effectiveness and transparency. Bilateral relations and partnerships with intelligence agencies of consolidated democracies (with tradition in balancing effectiveness and transparency) have as well played a great role in strengthening Romania's intelligence professionalism and effectiveness; a few examples are SRI and SIE consolidated relationships and joint operations with FBI and CIA and MI6, and SPP's partnerships with U.S. Secret Service and France's guard and protection service, which consolidated Romania's IC position as a reliable partner in the international efforts to combat the new security challenges.[25] In addition, SRI leadership has been increasingly considering hiring "part time" specialists (such as sociologists, historians, economists, information technology specialists from the academia and civil society) to better the professionalism and effectiveness of the IC, an idea borrowed from the British system.[26]

Consolidating the legal framework has led to redefined roles and missions for the agencies, strengthened interagency cooperation and information sharing, in parallel with protection of classified information. These efforts were sped up by NATO/EU membership pressure as well as by the need to better cope with the current security threats and challenges. First, the Romanian government enacted the national security law of 1991 as well as the main legislation on the organizing and functioning of each intelligence agency, to define mandates and structures for the IC (with the main focus on political neutrality of the IC). During the following years, this legislation was amended on several occasions. In addition, soon after the revolution the authorities developed the first national security strategy, which has been revised since then on a regular basis, thus ensuring feedback among policymakers, IC, and other security organizations. For instance, in 2001, the government changed the national security strategy to fit it into the post 9/11 security background; the last revision took place in the spring of 2006.[27] In the post-9/11 context, the Romanian government has passed legislation on countering and combating terrorism and organized crime, and established internal tools to counter terrorism, including new roles and missions and the adoption of a "National Anti-Terrorism Strategy". At the international level, Romania has ratified all twelve United Nations counter terrorism conventions, as well as all the relevant international conventions on issues related to organized crime.[28] In April 2002, due to NATO's pressure, Romania enacted the Law on Protection of Classified Information, which

stipulates that classified information is given only in the circumstances and the conditions provided by law.^[29] A national system of protection of information was instituted, while two bodies were created to hold national secret information and NATO classified information respectively, the Office of the National Registry of State Secret Information and the National Authority for Security.^[30] A package of laws on national security (providing for better defined roles and missions and improved human resources management) has been under debate since early 2006; when finally adopted, it will contribute highly to the democratic consolidation of the intelligence system in Romania.^[31]

Additional steps to increase effectiveness included the establishment in 2005 by Traian Basescu of a National Intelligence Community (CNI), functioning under the National Defense Supreme Council (CSAT); CNI is a lead agency created to balance and channel competition among branches of the Romanian IC, and, thus, enhance inter-agency cooperation and intelligence sharing.^[32] On the other hand, due to media and international public opinion criticisms, the number of agencies was gradually reduced to six by 2006, with the MOD gathering its intelligence agencies under a single agency during the early 2000s and elimination in 2006 of the MOJ's intelligence agency, under EU's pressure.

The afore-mentioned undertakings have resulted in an improvement of the overall intelligence system's capabilities and performance, which has been reflected in both Romanian and foreign public opinion. In Romania, a 2002 poll revealed that sixty percent of the Romanian citizens considered the new IC a modern democratic system; on the other hand the intelligence agencies have been receiving a great number of job applications during the last years, as a proof of citizens' trust.^[33] President Traian Basescu personally acknowledged Romanian IC's democratization and effectiveness after the fall of the communist regime; in his view, the IC became NATO-compatible "before the rest of Romania."^[34] Abroad, former CIA director George Tenet decorated both Radu Timofte (SRI director) and Ion Stefanut (head of Anti Terrorism Brigade) in 2003 for direct support to the United States fight against terrorism; U.N. Secretary General Kofi Annan decorated colonel Vlad Dumitru (head of the SPP unit deployed in Sudan between 2004-2005 to ensure the protection U.N. officials in combat/conflict zones) with the U.N. Medal for exceptional performance.^[35] To sum up, Romania's international cooperation to fight the new security challenges has been "exceptional" and the United States has had "no better partner than Romania. Romania has made commitments and kept them up."^[36]

Transparency

Increasing IC effectiveness has been followed by proceedings to establish and augment accountability and openness, in order for Romania's intelligence system to remain within democratic boundaries. This has been especially demanding considering Romania had no tradition of accountability to the people (other than Ceausescu), let alone to the rule of law. It was a "culture of secrecy" that Romania inherited in 1989 and the "public's right to know" notion had no meaning for the Romanian intelligence agencies during the first years of transition. National security was motivated on numerous occasions by the IC in order to deny access to information, which led to public mistrust of IC openness: during the previously-mentioned poll, only twenty three percent of the population believed that the intelligence agencies offered sufficient information to the public.^[37] Prolonged secrecy also favored corruption and abuse of office. The intelligence community therefore had to learn the "ABC of transparency." Under these circumstances, ensuring openness took longer than achieving effectiveness, but it finally materialized: Romania developed and strengthened democratic control (executive, legislative, judicial, internal and external) and made possible public access to IC information (legal measures permitting citizens to obtain intelligence records of various types). Hence, making available information about intelligence has ultimately led to public understanding and less cynicism towards the IC in Romania. Additional work focused on promoting a political culture to raise confidence in intelligence both within and outside the IC, enhancing civilian awareness and competence and launching informed public debates.

Control and Accountability

Romania established democratic control (executive, legislative and judicial) of the intelligence agencies in the early 1990s. The executive control (tasking, prioritizing, and making resources available) is exercised by the National Defense Supreme Council (CSAT), composed of the president, prime minister, SRI and SIE heads and various ministers, which was established under Law Number 39 of 13 December 1990 to organize and coordinate the IC activity.[38] The legislative control and oversight, exercised by standing/permanent and select/special committees, include: setting the legal framework on the organization and mandates of intelligence; assessing the implementation of the legislation; providing IC funds and holding IC accountable for its expenditures; reviewing IC activity; and consuming intelligence.[39] Judicial control is stipulated in Law 51/1991 on National Security and consists in ensuring the legality of IC activities (for instance, obtaining a warrant from the public prosecutor in order to carry out acts that infringe upon the privacy of citizens).[40] While the executive and legislative control mechanisms have been strong (with the CSAT and legislative committees meeting frequently to direct, review, assess and make inquiries about IC and other national security components' activity) judicial oversight has been the 'weakest link' of the control/oversight chain in Romania due to faulty legal framework and corrupt magistrates.[41] Overall control has also been undermined by several issues, such as the existence of too many intelligence agencies, the state's initial focus on other issues (elections, institutional engineering, economic reforms)[42], political infighting between the president and the prime minister with regard to control of intelligence (a consequence of the semi presidential system), insufficient parliamentary expertise in the intelligence field (they change with every legislature), lack of teamwork within parliamentary committees as well as between former and current members of the oversight committees, and uncooperative and unsupportive attitudes of the IC when asked to make information available to the legislators (despite the fact that they have appropriate clearances).[43] Nevertheless, when formal mechanisms failed to exercise their power, the Romanian press has stepped in, informed the Romanian citizens and the international community of the IC wrongdoing, and thus encouraged the government to make reforms.[44] The press warned on cases when the new IC became politicized and covered cases of corruption and undermining of the economy by the intelligence officers after 1989; during Romania's race for NATO membership, Romanian newspapers published lists of former Securitate officers in key governmental positions, which alerted public opinion both at home and abroad; and, as previously mentioned, the Romanian press translated a series of foreign press articles warning that NATO would not consider Romania for membership if former political police officers continued to work for the IC. All these led to personnel reduction, improved legislation (i.e., the law on protection of classified information or leak prevention programs), and more transparency.

Furthermore, from the need to overcome the public apathy toward intelligence and wipe away the Securitate stigma, the Romanian IC has initiated a campaign to cultivate a political culture that supports and trusts intelligence both within and outside the IC.[45] Earliest contributions to developing an intelligence awareness among IC outsiders in general and those who oversee its activity in particular, included the creation of the previously-mentioned HNSC, which educates parliamentarians, government representatives, civil society members, academia and journalist in the security and intelligence field, as well as common education and training arrangements with other nations on the same topics. In addition, Romanian IC has launched public debates (from joint education and training programs to talk shows, NGOs-Government-international community initiatives, round tables, debates on the laws etc) with government officials, NGOs and the media representatives, on specific topics (i.e. oversight, the adequacy of the IC roles and missions in the 21st century, transparency, etc.) Occasionally, the agencies have requested *ad hoc* meetings with their oversight committees in the parliament to establish ways and means to strengthen cooperation, communication and mutual respect between both institutions.[46] Such joint training, meetings and debates enabled the IC outsiders in Romania to more realistically comprehend why intelligence is needed (awareness of the national security threats and challenges), what the IC values and limitations are (to include understanding the need for secrecy of the intelligence agencies in order to effectively carry out their missions) but also helped increase the IC expertise

and transparency (understand the need to open more to the public). President Basescu acknowledged the need for secrecy in the effectiveness of the IC work, within a democratic system, arguing that there is no such thing as an entirely transparent IC worldwide, on the one hand, and, on the other hand, that too much transparency would make no difference between an IC and an NGO.^[47] Moreover, numerous journalists have emphasized in their coverage the IC reform accomplishments and informed the Romanian public opinion on international recognition of the IC professionalism; embedded media, which has had the possibility to write and interview Romanian IC troops in the theater operations, has praised the IC effectiveness and professionalism, as well.

On the other hand, a Law was enacted in December 2002 on Decisional Transparency in Public Administration, which guarantees public access to meetings conducted by public agencies.^[48] The law requires the meetings of government bodies to be open to the public, demands the public authorities to invite citizens to participate in decision-making process and to disclosure information about pending activities. In 2005 there were 8769 requests for information on draft laws and 7140 recommendations received, of which sixty four percent were included in the draft acts.^[49] There are no available statistics for 2006, but there were situations when representatives of the civil society participated in various Parliamentary debates on legislation pertaining to both national security and intelligence.

It is also worth mentioning the decision adopted in the fall of 2006 that stipulates that the president, prime minister, all cabinet members, and all parliamentarians no longer need security clearances to be able to have access to classified information.^[50]

Free Access to Information

Freedom of Information is granted by the Constitution of Romania, which empowers the citizens' free access to any information of a public interest, without prejudice; the public authorities are obliged to make available to citizens correct information on public affairs and issues of personal interest.^[51] But freedom of information legislation was not adopted until early 2000s, when the Freedom of Information Access Law was enacted.^[52] Law No. 544 of 12 October 12, 2001 on Free Access to Public Information stipulates the following: the Romanian citizens have unconstrained access to government records and documents; the public authorities are obliged to respond within ten or thirty days, depending on the scope of the requested information; the public authorities are obliged to publish basic information about their structures and activities, as well as to create public relations departments and designate spokespersons; and, a specific section concerning mass media obliges the public authorities to hold news briefings on a regular basis, whereby the spokespersons are obliged to respond to all media inquiries.^[53] The adoption of the law on FOIA was a success of transparency in Romania in two ways: first, it granted Romanians access to government records; second it was a fruitful cooperation between government, political parties and civil society. It was the first time when civil society representatives participated in the law making process, from the beginning to the end, which allowed them to provide valuable insight to the drafters, (including international critique on the drafts) and made the media more familiar with specific issues pertaining to freedom of information.^[54]

Additional freedom of information legislation efforts include the Law No. 16/1996 of April 1996 Version (updated in July 2002) on the National Archive, stipulating the regulations on access to archived information, the Law No. 677/2001 for the Protection of Persons concerning the Processing of Personal Data and Free Circulation of Such Data, which enable citizens to access and amend personal information held by public or private bodies and the 2003 Law on Certain Steps for Assuring Transparency in Performing High Official Positions, Public and Business Positions, for Prevention and Sanctioning the Corruption, which stipulates the creation of a National Computerized System to enable public access to electronic information and government data.^[55]

Notwithstanding the legislative efforts, sometimes access to intelligence information has been rather difficult, because the agencies would invoke national security for not disclosing information. In addition, there have been situations when NGOs won a case to access information (i.e. on the wiretaps authorized by the general prosecutor for a ten year period) but could not obtain it due to the prosecutor's ignorance of the court order; even though the NGOs filed a civil suit against the prosecutor and the institutions were penalized with a fine per each day for withholding of information, it was not until the media had stepped in (covering on the huge number of wiretaps authorized and the names of the persons under surveillance), when the information was finally released.^[56] Nevertheless, in 2006, civil society appreciated as positive the responsiveness of the public authorities to information access requests yet acknowledging some problems in excessive costs and accommodating "delicate" requests.^[57] In addition, Romania's progress towards transparency is acknowledged in a report called "Transparency and Silence" published at in 2006 by Open Society Justice Initiative, which concludes that public access to government information in Eastern Europe is comparable with that in established democracies, specifically mentioning Romanian government's promptness to respond to public request for accessing information as compared to counterpart agencies in France and Spain; the report specifies that sixty percent of the requests filed in Romania were accommodated, by contrast with thirty one percent in France and twenty-four percent in Spain.^[58]

Yet the most important piece of legislation with regard to transparency of the intelligence community is the Law No. 187 of December 1999 on the Access to the Personal File and the Disclosure of the Securitate as a Political Police. The law stipulates the following: access to personal Securitate files; access to the files of the candidates for public office to establish their past involvement with the Securitate; and defend/prove the innocence of public office runners from false allegations of Securitate involvement.^[59] The law, also known as the "lustration law" or "Ticu law" (because it was initiated by Ticu Dumitrescu, a former political prisoner and current head of the Association of Former Political Prisoners), represents a break-away from the communist past and a new chapter in the democratic control of the intelligence in Romania. It led to the creation of the National Council for the Study of Securitate Archives (CNSAS), which was tasked to apprehend the former Securitate archives from the intelligence agencies, except for those jeopardizing national security. In compliance with the law, the CNSAS has the following rights: to access the former repressive intelligence agency's files and records even before the transfer of the archives to its headquarters; to publish the names of the former Securitate personnel or collaborators, especially if they are current political figures or are running for office; and to sue the intelligence agencies for lack of compliance with the law (citizens have the same right too).^[60] But despite the power of the law, the activity of the CNSAS during the first years since its creation was modest, mainly facilitating access to personal files. This was due to the following: refusal of the intelligence agencies to hand over the archives, invoking CNSAS' lack of adequate storage and national security; CNSAS management infighting; government opposition to what files to make public and what not (supporting a selective publication and/or using the archives them for political ends) without observing the law which stipulates that classification of the files should be decided by both the intelligence agency owning the files and the CNSAS.^[61] According to researchers, refusal to publish communist era documents (other than those pertaining to specific technical or military information) on national security grounds is unjustified.^[62] CNSAS' activity has also been hampered by the Council's denial of access to important files by the agencies, alteration of selected files by the agencies, destroying records or making them vanish, as well as misuse of files.^[63] In this particular case, historian Marius Oprea, a former dissident and critic of the regime and Securitate and currently Romanian prime minister's advisor, refuses to believe that, officially, there is no single file on Ceausescu, considering that all the intelligence organizations from other former communist countries had archives on their leaders; Oprea believes that Ceausescu's archive would reveal that many current political figures were Securitate officers.^[64] Even current president Traian Basescu acknowledges the possibility that the intelligence agencies made some files disappear and/or altered/fabricated other.^[65] In short, the CNSAS' activity between 2001 and February 2005 consisted in apprehension of only 9,442 files (approximately 700 meters) and making public a list of 38 candidates to the 2000 elections, who were found to have collaborated with the Securitate;

many of the 38 alleged suspects either resigned voluntarily or upon request by their political parties.[66]

It was not until the CSAT adopted a Resolution in February 2005 urging the transfer of all files to CNSAS that the Council started to be more effective.[67] In 2005 for instance, the Council received 1,298,960 files (approximately 12.5 kilometers), finalized 2,048 requests for access to personal file (of which 1,568 were received in 2005 and the rest were unsolved requests from previous years), revealed to those who requested to see their files the names of 49 persons alleged to inform on them.[68] Thus, between 2001 and 2005, the Council took into custody 1,306,875 records (1,564,340 volumes), of which 1,306,102 from SRI, 132 from SIE 341 from the Ministry of Justice's former Intelligence Directorate (which was abolished in 2006), and no file from the MOD's DGIA.[69] The transfer was completed in December 2006, when SRI, SIE and DGIA handed over two million files to CNSAS, under President Basescu's direct supervision. SRI still keeps 75,000 secret files (counter espionage and terrorism related), whose declassification, according to the SRI, would endanger national security, but to which the CNSAS members will have full access.[70]

Since 2006, when the Council received the majority of the records, the CNSAS has published a great number of files upon review, which exposed collaboration with the DSS of various politicians, academics, intellectuals, athletes, clergy members and journalists, some of whom have been strong supporters of democratic reforms and transparency after the fall of communism. But what really came as a big shock and caused public anger, was discovering that thousands of children as young as nine years old (recruited by the Securitate from high-quality learners and good athletes, yet of modest social background) spied on their families and colleagues.[71] The Council has revealed that the children informed when their classmates or families criticized the communist party or the regime, whether they were listening to foreign radio stations (such as Radio Free Europe or the Voice of America), or if they had contact with foreigners.[72] The Securitate recruiters were paid extra for engaging children in spying, commensurate with the number of children recruited.[73] This is especially intriguing as there was no law before 1989 to legitimate Securitate recruiting minors.[74] According to researchers, one could not exclude the possibility that some of the informants may still collaborate with the present intelligence agencies or work for them.[75] As stated by a member of the Institute for Studying Communism Crimes (IICCR), a governmental organization established by Decree No. 1724 of 2005 to uncover truth about the communist regime is preparing to bring to justice dozens of former Securitate officers who recruited children.[76]

As CNSAS appeared to mostly disclose the collaborators (without differentiating between those who voluntarily became informants and those who were forced to) rather than the Securitate officers, CNSAS and civil society's efforts to modify the Ticu Law have lead to adoption in October 2006 by the Parliament of a series of amendments to the law, including: elimination of the "political police" phrase from the body of law; reformulation of the definition of a "Securitate collaborator" as the person who "voluntarily informed or facilitated the transmission of information that denounced activities or attitudes against the communist regime, which would infringe upon fundamental human rights and liberties" to include the heads of the communist party of all echelons who commanded the Securitate and whose orders violated human rights; making the CNAS resolutions public after publishing them in the "Official Gazette"; and publishing lists with Securitate officers.[77] Accordingly, a single engagement or a few informative notes from a "fabricated" file would be enough to decide collaboration.[78] Since 2003, the CNSAS' website has published lists with the officers who did political police work, the last list being posted on the November 13, 2006.[79] In addition, the researchers of the Securitate archives will notify the authorities on whether informants harmed the people they spied on, and although there is no punishment, a draft law was proposed stipulating the banning of former Securitate collaborators from public life.[80] Apart from these efforts, CNSAS also organizes exhibits of Securitate files and documents occasionally; during the 2003-2006 period, it had three exhibits, in Constanta, Timisoara and Arad.[81]

The declassification of the archives of the former communist intelligence service has contributed to the efforts of the Presidential Commission for the Study of the Communist Dictatorship in Romania, created in April 2006 to reexamine the history of communism and condemn the regime. The commission was set up following pressure by the European Union and civil society for the authorities in Bucharest to assess the transgressions of the former communist dictatorship and its supporters (be it organizations or physical persons).^[82] The commission, also known as the “Tismaneanu Commission” (as it is headed by University of Maryland professor, Vladimir Tismaneanu) consists of academics, researchers, dissidents, historians, psychologists and anthropologists. After months of extensive work, hampered by numerous obstacles from several government institutions, the commission issued a report in December 2006, which indicted the Communist regime for crimes against humanity, of which the PCR and the Securitate were primary at fault; the 650 page report condemns many former apparatchiks, such as former president Ion Iliescu, Corneliu Vadim Tudor (current leader of the nationalist Romania Mare (Greater Romania) Party), without forgetting and forgiving Leon Tismaneanu who was deputy director of the government publishing house and published in support of the communist regime.^[83] The commission concluded with a series of recommendations, including the establishment of a national day to commemorate the victims of the communism, creation of a dictatorship museum and study of the Communist dictatorship in high school.^[84]

The declassification of files has had painful consequences in that it has alienated families and shattered friendships. Despite all that, the majority of Romanians say opening of the files is chief for Romania’s move away from the dark past and its ghosts.^[85]

Overall, all the above-mentioned efforts have contributed tremendously to the increase of the level of transparency of the IC in Romania and inculcating a security and intelligence culture within both the IC and in outside society.

Conclusion

Romania has implemented dramatic changes in the intelligence system since the end of Communism and accession to NATO and the EU—a relentless effort which gradually unchained the current intelligence community from Ceausescu’s dreaded secret police organization.

Bolstered by a vigilant international community (which promised Romania NATO and EU membership in return for democratic control and transparency of the IC) and by an alert media (a real “Cerberus” of democracy, which has repeatedly denounced IC’s transgressions), the effects of the reform have been impressive and beneficial to the image and credibility of the Romanian IC at home and abroad; not only is the new intelligence system clearly under democratic control and more open to the public, but also appears to be effective both domestically and internationally. During almost twenty years of democratic consolidation, Romania has shifted from a “culture of secrecy” to “culture of security and transparency” both within its intelligence system and among IC outsiders, where secrecy (effectiveness) and democracy (transparency) weigh equally when it comes to national, regional or international security. One could, therefore, argue that Romania successfully handled the intelligence and democracy basic paradox of maintaining a both effective and transparent intelligence system at the same time.

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28. *Jane's Sentinel Security Assessment – The Balkans, Op. Cit.*, and Ira C. Queen, *Op. Cit.*

29. See *Serviciului de Informatii Externe*.

30. A case of infringement of this law was encountered in 2006 when two journalists illegally received classified information; they were both charged in February 2006 but one was released after a few days as ordered by the Supreme Court. See Romania page at *FreedomInfo.org*.

31. The adoption is held back by political infighting between president and prime minister, who often belong to different political parties, a consequence of Romania's semi-presidential system in which there is unclear constitutional separation of responsibilities between the president and prime minister.

32. *Jane's Sentinel Security Assessment – The Balkans, Op. Cit.*

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41. For detailed information on the oversight, see Cristiana Matei, "Intelligence Community in Romania. From an Instrument of Dictatorship to Serving Democracy: Per Aspera ad Astra," *Op. Cit.*

42. Still, the SRI director reported before the Parliament, for the first time in November 1990, given the public concern with a potential comeback of the Securitate. See: Larry Watts, *Op. Cit.*, 10.

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44. The press alerted the public opinion on cases when the new IC became politicized and During Romania's race for NATO, Romanian newspapers published lists of former Securitate officers in key governmental positions, which alerted public opinion both at home and abroad; and previously mentioned, the Romanian press translated a series of articles warning NATO would not consider Romania for membership if former political police officers continue to work in the IC.

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68. See the website of *Consiliul National Pentru Studierea Arhivelor Securitatii*, *Op. Cit.*
69. See the website of *Consiliul National Pentru Studierea Arhivelor Securitatii*, *Ibid.*
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